

### REMARKS

This is in response to the Office Action mailed on February 26, 2003 in regard to the above-identified patent application. Claims 1 and 14 have been amended to more clearly describe Applicant's invention. Claims 1-17 are pending in the present case.

The period for response to the Office Action mailed ended on May 26, 2003. Please find filed herewith a petition for a three month extension of time. The period for response with the three month extension ends on August 26, 2003.

If for any reason the petition should become separated from this response, the Commissioner is respectfully requested to consider this a petition for any extension of time required to maintain the pendency of this patent application. In this event the Commissioner is also authorized to charge Deposit Account No. 50-1894 for any fee that may be required to maintain the pendency of this patent application.

### 35 USC §112 REJECTION

The Examiner rejected Claims 1-12 under 35 USC 102(b), second paragraph, stating Claim 1, upon which Claims 2-12 depend, lacks antecedent basis for the limitation "the steering means". Applicants have amended Claim 1 to place Claim 1 in proper form. Applicants respectfully submit that this rejection has been overcome.

### 35 USC §102 REJECTION

The examiner has rejected Claims 1-3, 6-9, and 11-14 under 35 USC 102(b) as being anticipated by Lindquist et al. (USPN 6,102,886). Applicants respectfully request the Examiner withdraw this rejection.

Lundquist et al teach a steerable medical probe which is designed to penetrate and be advanced through intervening tissue to reach a precise target tissue selected for a medical procedure, such as tissue ablation. The Lundquist et al device probe end includes a stylet guide means with a flexible tip and a tip directing means extending from the control end to the flexible tip for changing the orientation of the central axis of the stylet guide means for

directing a flexible stylet outward through the stylet port and through intervening tissue to targeted tissues. This is different than the invention of Claim 1 of the present application.

In contract to Lundquist et al, the invention of Claim 1 allows for the proper placement of an ablation device upon the surface of a target tissue, not *within* the target tissue. Claim 1 requires "a flexible member operably disposed between the attachment point of the steering means and the distal end of the elongated body member," such that when the steering means is deflected, the "flexible member dynamically deflects the distal portion of the elongated body member in response to contact with the surface of the target tissue site." Since the flexible member is positioned between the attachment point of the steering means and the distal end of the elongated body member, the flexible member is allowed to deflect when it contacts the surface of the target tissue. In this way, the ablation device will be properly placed adjacent to the target tissue site and effective tissue ablation can be achieved.

As stated above, Lundquist et al is not concerned with proper placement of an ablation device *upon* a target tissue. Rather, the device of Lundquist et al is designed to penetrate tissue so that the stylet (RF electrode for tissue ablation) can be directed to a target tissue site within a mass of tissue. There is no teaching or suggestion in Lundquist of having a flexible member disposed at the distal portion of the device, the flexible member being adapted to deflect as it comes into contact with the surface of the target tissue.

For the reasons set forth above, Applicants respectfully submit that this rejection has been overcome and Claim 1 is in condition for allowance. Furthermore, since Claims 2, 3, 6-9, 11 and 12 depend from, directly or indirectly, and further limit Claim 1, Applicants respectfully submit Claims 2, 3, 6-9, 11 and 12 are also believed to be in condition for allowance

Claim 13 has been amended above to more clearly define Applicants invention. More specifically, Claim 13 requires "steering the catheter system until the flexible distal portion deflects in response to contact with the surface of the target tissue site." As stated above, there is no teaching or suggestion in Lundquist for a catheter system having a flexible distal portion which deflects in response to contact with the surface of a target tissue site. Rather,

the device of Lundquist et al is directed through tissue toward a target tissue site *within* a tissue mass. For the reasons set forth above, Applicants respectfully submit this rejection has been overcome and Claim 13 is in condition for allowance.

Furthermore, since Claim 14 directly depends from and further limits Claim 13, Applicants respectfully submit Claim 14 is in condition for allowance.


35 USC §103 REJECTIONS

The Examiner has rejected Claim 10 under 35 USC 103(a) as being unpatentable over Lindquist et al and Claims 15-17 under 35 USC 103(a) as being unpatentable over Lindquist et al in view of Pomeranz et al. (USPN 5,800,482). Applicants respectfully request the Examiner withdraw these rejections.

Since Claims 10, and 15-17 all depend from, directly or indirectly, and further limit independent claims which Applicants now believe are in condition for allowance, Applicants respectfully submit that the above rejections under 35 USC 103(a) are improper and claims 10, and 15-17 are in condition for allowance.

In view of the above amendments and the discussion relating thereto, it is respectfully submitted that the instant application, as amended, is in condition for allowance. Early reconsideration and reexamination is respectfully requested.

Respectfully Submitted,

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